

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

Arnel Dasrath, as Administrator of the Estate of Rexford
Dasrath,

Plaintiff,

-against-

The City of New York, et al.,

Defendants.

**DECLARATION OF
RAJU SUNDARAN IN
SUPPORT OF
DEFENDANTS'
MOTION FOR
SUMMARY JUDGMENT**

15 CV 776 (ADM) (RLM)

-----X

Raju Sundaran, an attorney duly admitted to practice in the United States District Court for the Eastern District of New York, declares, under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am a Senior Counsel at the New York City Law Department, Office of the Corporation Counsel, and I make this declaration in support of defendants City of New York ("City"), Police Officer Nicholas Guzman ("PO Guzman"), and Police Officer Kevin Ermann's ("PO Ermann") (collectively "Defendants") motion for Summary Judgment pursuant to Fed. R. Civ. Proc. 56. I am fully familiar with the matters set forth herein. In support of their motion, defendants submit the procedural history and exhibits described below.

2. On February 13, 2014, plaintiff, Arnel Dasrath, filed a Notice of Claim with the City of New York regarding the incident surrounding his son Rexford Dasrath's death. Annexed hereto as "Exhibit J" is a copy of the Notice of Claim dated February 13, 2014 ("NOC") showing the allegations plaintiff lodged therein.

3. On February 13, 2015, plaintiff filed this federal civil action alleging, *inter alia*, claims under federal law of excessive force, failure to intervene, municipal liability under

Monell, as well as state tort claims of assault and battery, conscious pain and suffering, wrongful death, and negligence. Annexed hereto at “Exhibit K” is a copy of the complaint initiating this action.

4. On July 17, 2015, plaintiff filed an Amended Complaint adding PO Guzman and PO Ermann as defendants and alleging the same causes of action as the original complaint. Annexed hereto as “Exhibit E” is a copy of the Amended Complaint, which is the operative complaint in this matter and sets forth the specific allegations plaintiff has lodged against all Defendants.

5. On November 3, 2016, witness Eduard Bogel signed an affidavit regarding the incident alleged in the Amended Complaint. Annexed hereto as “Exhibit G” is a copy of the affidavit of Eduard Bogel, wherein he affirms that he heard someone say “put the knife down” followed by “3 or 4 gunshots.”

6. On February 8, 2017, PO Guzman was deposed in this matter by plaintiff, during which time he gave testimony regarding the allegations set forth in the Amended Complaint. Annexed hereto as “Exhibit B” are portions of PO Guzman’s deposition upon which Defendants rely to establish that the force used on Rexford Dasrath was reasonable and justified under the circumstances.

7. On February 9, 2017, PO Ermann was deposed in this matter by plaintiff, during which time he gave testimony regarding the allegations set forth in the Amended Complaint. Annexed hereto as “Exhibit A” are the portions of PO Ermann’s deposition upon which Defendants rely to establish that the force used on Rexford Dasrath was reasonable and justified under the circumstances.

8. On February 16, 2017, plaintiff, Arnel Dasrath, was deposed in this matter by Defendants, during which time he gave testimony regarding his son Rexford Dasrath, but not regarding the specific facts surrounding Rexford Dasrath's death as Arnel Dasrath was not present. Annexed hereto as "Exhibit D" as portions of Arnel Dasrath's depositions wherein he describes details about his son, Rexford Dasrath, that were known to the family.

9. Prior to encountering law enforcement official, Rexford Dasrath called Yan J. Zhan threatening to kill Mr. Zhan. Annexed hereto as "Exhibit C" is a copy of the NYPD Sprint Report showing that a call was made to the NYPD regarding the call Rexford Dasrath made to Yan J. Zhan.

10. Rexford Dasrath's interactions with PO Ermann and PO Guzman immediately prior to the use of force was partially captured within video surveillance. Annexed hereto as "Exhibit F" is a copy of the surveillance video capturing portions of the incident alleged in the amended complaint.

11. Following the use of force, Rexford Dasrath was transported by EMS to Woodhull Hospital where he was eventually pronounced dead. Annexed hereto as "Exhibit H" and "Exhibit I" are copies of the Pre-hospital Care Report and the Death Certificate of Rexford Dasrath, respectively, which show that Rexford Dasrath was transported by EMS to Woodhull Hospital and that he was later pronounced dead.

12. Multiple witnesses were interviewed regarding the events alleged in the amended complaint. Annexed hereto as Exhibit L, Exhibit M, Exhibit N, and Exhibit O are copies of the statements made by multiple witnesses to members of the NYPD regarding the incident alleged in the Amended Complaint.

Dated: New York, New York
October 16, 2017

ZACHARY W. CARTER
Corporation Counsel of the
City of New York
Attorney for Defendants
100 Church Street, Room 3-165
New York, New York 10007
(212) 356-2327

By: /s/
Raju Sundaran
Senior Counsel

TO: BY ECF
Filko Prugo, Esq.
Attorney for plaintiff